



December 9, 1997

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U.S. Department of the Treasury  
Financial Management Service  
401 14th Street SW -- Room 420  
Washington, DC 20227

**31 C.F.R. Part 208; Management of Federal Agency Disbursements;  
Electronic Funds Transfer Mandate**

Dear Cindy:

On behalf of the National Automated Clearing House Association ("NACHA"), I respectfully submit these comments in response to the notice of proposed rule making issued by the Treasury Department's Financial Management Service ("FMS") regarding the implementation of the final electronic funds transfer ("EFT") provisions of the *Debt Collection Improvement Act of 1996* (the "Act").<sup>1</sup> Under the Act, essentially all federal payments made after January 1, 1999 must be made by EFT, except federal payments made under the Internal Revenue Code and federal payments subject to a waiver granted by the Secretary of the Treasury (the "federal EFT mandate").<sup>2</sup>

The federal EFT mandate represents a major undertaking for both the federal government and for the banking industry. The mandate is sweeping in scope in that it will impact both individuals and companies in their roles as receivers of federal payments, including beneficiaries of federal retirement plans such as Social Security, recipients in federal need-based programs, recipients of federal grant funds and vendors of products and services to federal agencies.

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<sup>1</sup> NACHA is a nonprofit banking trade association that promulgates the rules and operating guidelines for electronic payments through the ACH Network, and for Electronic Benefits Transfers, electronic checks, financial EDI, electronic commerce, and cross-border transactions. The Association is closely affiliated with the National Organization of Clearing Houses (NOCH) and the National Council for Uniform Interest Compensation (N.C.U.I.C.), which primarily address check processing and wire transfer issues respectively.

<sup>2</sup> NACHA's comments herein supplement our earlier comments submitted in response to the interim rule and request for comment issued last year by FMS to implement the first phase of the federal EFT mandate [See letter dated November 25, 1996 from Ian W. Macoy, NACHA, to Cynthia L. Johnson, FMS].

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NACHA strongly supports the federal EFT mandate since it will result in greater convenience and safety for federal payment recipients, and will save taxpayers hundreds of millions of dollars over the next several years due to the greater efficiencies associated with disbursing and processing payments electronically.

In the year that has elapsed since our original comments, NACHA is pleased to note that the federal government has made substantial strides in the area of public awareness and outreach to the banking industry and user communities. However, much remains to be done with regard to:

- General public awareness;
- Development of the proposed Electronic Transfer Account ("ETA") for non-accountholding individuals without access to compatible state electronic benefit transfer ("EBT") programs; and,
- Enrollment and remittance information requirements of federal vendors and grant recipients.

#### EXECUTIVE SUMMARY

NACHA's comments may be summarized as follows --

- Treasury made the appropriate decision to rely on the existing payments system infrastructure to deliver federal EFT payments to individuals and vendors. As such, Treasury must recognize the need to rely on the rules, operating procedures and standards governing this infrastructure, such as the NACHA Operating Rules for government ACH entries.
- To encourage accountholding individuals and vendors to understand the benefits and opt for electronic delivery of federal benefits, Treasury should commit to providing financial and other assistance to private sector organizations responsible for education and public awareness of electronic payments, such as NACHA and its regional ACH association members.
- For most federal vendor payments, Treasury should rely on ACH credits with accompanying remittance information as a low-cost and efficient solution to the needs of federal agencies, financial institutions and vendors.
- Regarding the remittance information delivery needs of vendors, Treasury should actively support low cost initiatives underway by NACHA and the Federal Reserve. Regarding vendor enrollment for electronic payments, federal agencies should support NACHA's expanded automated enrollment application.

NACHA's comments focus primarily on the last point -- the need for the federal government to ensure that an inexpensive, reliable and efficient financial electronic data interchange ("FEDI") environment exists to meet the needs of private companies and individuals selling products or services to federal entities covered by the Act.

#### NACHA POSITION

NACHA's position on the federal EFT mandate continues to be as follows:

- We are strongly supportive of the mandate because it recognizes the convenience, cost savings and other benefits of EFTs over paper payments;
- The key to the federal EFT mandate's successful implementation will be maximum reliance by the federal government on the private sector/banking industry, and on existing payment and information technologies, operating rules and standards; and,

- For payments to vendors and federal grant recipients, the optimal approach for the federal government is to rely on payment networks that can deliver payments and remittance data together.

From the perspective of the nation's financial institutions, which serve as intermediaries and processors of federal payments, the federal EFT mandate represents both challenges and opportunities. In recognition of this, NACHA and its regional association members have been actively engaged since the enactment of the Act in a comprehensive plan to facilitate implementation of the federal EFT mandate by the banking industry. Features of this plan include working closely with FMS and the other federal agencies implementing the mandate on an ongoing basis, developing NACHA Operating Rule changes to facilitate key aspects of the mandate, encouraging states to pursue similar EFT policies, and targeting education, marketing and public relations efforts to raise public awareness.

### **Payments to Individuals**

For individuals holding bank accounts, the challenge of converting paper payments to EFT is primarily limited to conveying to recipients the benefits of Direct Deposit, such as convenience, deposit reliability, and reduced theft. NACHA is now engaged in numerous initiatives under its annual marketing program specifically targeting awareness and education regarding the federal EFT mandate to facilitate implementation. NACHA is working closely with SSA, the Federal Reserve Banks, FMS and other federal agencies as part of this program (current and planned initiatives under the NACHA marketing program are summarized in an attachment to our response). As noted in our earlier response to FMS on the interim rule, NACHA believes such a cooperative effort represents an effective and efficient allocation of public and private sector resources. We understand that the Treasury Department has budgeted resources for educating consumers, businesses and financial institutions, and we believe that the Treasury Department should consider allocating a portion of these resources to banking industry associations for the purpose of carrying out this education mandate.

Further, to improve the process by which federal beneficiaries establish their eligibility and initiate their benefit payments, NACHA has developed an automated enrollment method (known by its standard entry class code "ENR") in cooperation with the Social Security Administration ("SSA"). The ACH application provides financial institutions the option of transmitting enrollments electronically to a federal agency for consumer credits. Despite its relatively recent implementation, participating federal agencies already report great success with the ENR application for enrolling new recipients and converting pre-existing check recipients to EFT.

For unbanked individuals, NACHA's EBT Council is following with interest the federal government's benefit delivery capabilities: (1) in conjunction with compatible state-administered EBT programs, and (2) through the development of parameters for financial institutions contracting to offer federal ETAs. The EBT Council is encouraged by the rapid expansion of state-administered EBT programs. Ten states currently rely on the *Quest* Operating Rules and NACHA expects this number to grow to almost thirty states by the end of 1998.

### **Payments to Federal Vendors and Grant Recipients**

The payment of vendors and grant recipients under the federal EFT mandate will impact thousands of financial institutions and as many as 500,000 businesses/organizations nationwide. To ensure that this impact represents minimal disruption to the payments system and offers benefits to all participants, it is imperative that the federal government coordinate with and rely to the greatest possible extent on the private-sector to ensure full implementation of the final rule. This includes adherence to EFT payment policies that recognize existing technology and banking industry conventions, and that depend on established payment and information processing systems.<sup>3</sup> It also includes relying for the most part on ACH credit entries with addenda records containing remittance information as the most efficient means of payment.

Federal vendor payments range in type from one-time small-dollar payments to large dollar contract payments. By the end of FY 1996, before the effects of the recently implemented first phase of the mandate could be felt, only 16 percent of federal vendor payments were being made by EFT. Nonetheless, much progress is now evident with implementation of the first phase of the mandate and with federal government and private-sector FEDI initiatives beginning to bear fruit. As of June 30, 1997, the EFT participation rate for U.S. Treasury-disbursed vendor payments stood at 26 percent -- a 61 percent improvement in just one year. However, much still needs to be done to convert the remaining 74 percent of the vendor community to EFT.

The majority of federal vendor/grant payments still being made by check represent payments to small and medium-sized businesses whose financial institutions may or may not be EDI-capable. To close this gap, NACHA has been actively establishing minimum capabilities in the ACH Network. Two recently approved amendments to the NACHA Operating Rules -- required remittance information processing for Receiving Depository Financial Institutions ("RDFIs"), and an expanded automated enrollment capability -- will greatly enhance the attractiveness and efficiency with which the federal EFT mandate is implemented. These amendments also target directly the need to recognize that small and medium-sized business and financial institutions require access to low-cost and non-disruptive FEDI solutions. Finally, the timing of the federal EFT mandate's implementation and its broad reach is resulting in improvements, such as the two NACHA Operating Rule changes discussed in detail below, to the payments system infrastructure and legal environment that will benefit all commercial payment applications.

#### *1. Remittance Information Processing by RDFIs*

Today, as corporations consider their options when receiving payment-related information electronically, they evaluate receiving the information along with the payment or separately. According to a 1995 NACHA Corporate EDI Survey, 85 percent of all recipients indicated they

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<sup>3</sup> This NACHA position reflects our long-held position that the regulations governing federal government EFT payments [31 C.F.R. 210] should, for example, recognize the NACHA Operating Rules for federal ACH payments. We understand that proposed changes to 31 C.F.R. 210 are forthcoming and we will comment on them in more detail at the appropriate time.

prefer that remittance information be transmitted and delivered along with the payment. However, according to the *ACH Participant Directory*, only 1,209 of financial institutions are currently EDI-capable (i.e., are able to process and deliver remittance information to Receivers). For those financial institutions that do offer their corporate Receivers remittance delivery services, many have done so as a result of customer demand, and many have been able to showcase remittance delivery information as a value-added service. Conversely, the remaining financial institutions have opted not to offer FEDI services because they have been unable to make a business case for investing in the necessary software.

Vendor Payments -- While the conversion of consumer payments to EFT has steadily increased over the years, corporate payment participation has been low. A major impediment to the growth of FEDI is many RDFIs' inability to deliver remittance to their corporate customers. As a result of the federal EFT mandate, federal government agencies have been contacting vendors to collect the banking information necessary to make EFT payments. As noted by FMS, however, vendors' initial responses have frequently expressed the concern that their financial institution does not pass along payment-related information.

**Rule change:** NACHA recently adopted a rule to require that, upon the request of the Receiver, an RDFI must provide to each Receiver all payment-related information contained within addenda records transmitted with CCD, CTX, and CIE entries. RDFIs must provide this information to their Receivers by the opening of business on the second banking day following the settlement date of the entry. NACHA's adoption of this rule change responds to both the needs of vendors and grant recipients under the federal EFT mandate (and similar state policies), and to broader commercial needs for corporate-to-corporate payments.

The remittance processing rule change goes into effect September 18, 1998 -- a date selected in large part to ensure sufficient time exists for its implementation, but still in advance of the January 1, 1999 effective date under the Act and proposed final rule.

**Remittance Information Delivery Solutions:** The NACHA rule change ensuring a minimum FEDI processing capacity throughout the banking industry was only made possible by the availability of low cost remittance information translation and delivery solutions to financial institutions. For example, NACHA and MCI have developed *Rapid\*EDI* to give financial institutions of any size a FEDI capability through the ACH Network that they can offer customers without a substantial investment in technology (participation costs would average around \$50 per month or less, depending on the service level and processing volume). Low cost FEDI processing applications are also available from, or being developed by, several companies that produce ACH processing software for the banking industry. Finally, the Federal Reserve Banks are adding a FEDI processing application to the Fedline software that most financial institutions use to link to their Federal Reserve Bank and a request for proposals has been issued in this regard.

**Stakeholder Benefits:** NACHA anticipates that the benefits of the remittance information rule change will reach well beyond the government into the commercial sector. Businesses receiving payments from state and local governments will be assured of receiving remittance information

sent with an ACH payment by requesting it from their financial institution. In addition this rule change will facilitate corporate-to-corporate payments by assuring that corporate Receivers can request to receive payment-related information transmitted to them from corporate Originators.

## 2. *Expanded Automated Enrollment*

The automated enrollment process was incorporated into the NACHA Operating Rules in September 20, 1996 for use by Federal government agencies as a mechanism for accepting consumer credit enrollment information. However, until recently, use of the automated enrollment process was restricted under the NACHA Operating Rules and by practice to federal government consumer credit application enrollments only.

Social Security Administration Experience With Automated Enrollment -- In the first six months of operation, SSA received more than 300,000 ENR transactions. The automated enrollment process has proven highly successful for both participating financial institutions and SSA. Financial institutions are now able to forward consumer enrollment information to SSA more quickly and at a lower cost than any other form of enrollment. Customers are better served since enrollments occur with a single action at the servicing financial institution rather than several actions being required by multiple parties. SSA and other federal agency Receivers of ENR transactions also benefit by receiving direct deposit enrollments more quickly through a secure means and by avoiding the processing associated with paper enrollment or contacts via a toll free number.

Other Federal Government Agency Experience With ENR -- Other federal government agencies also utilize the automated enrollment process to obtain consumer enrollment data and they have experienced benefits similar to those of SSA. These agencies include the Office of Personnel Management ("OPM"), the Railroad Retirement Board ("RRB"), and the Department of Veterans Affairs ("VA"). Since ENR's inception, these agencies have experienced a consistent growth in the usage of the automated enrollment process. To date, OPM has received more than 5,100 automated enrollment entries, the RRB has received over 2,500 ENRs, and the VA has received over 7,700 ENRs.

**Rule change:** Based on the earlier success of the limited ENR application and an assessment that ENR could be applied to a full range of government payment applications, NACHA recently approved a rule change expanding the availability of the automated enrollment process for federal government applications. Use of ENR is now available to process enrollments for both credit and debit applications, for both consumers and companies. Nonetheless, it remains the federal government's option to commit to using this format for the Electronic Federal Tax Payment System (EFTPS) and for federal vendor enrollments.<sup>4</sup> Depending on whether financial institutions choose to offer automated enrollment services, this rule change would effectively

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<sup>4</sup> While the ENR will convey the enrolled vendor's banking information to a federal agency, it will not replace either the written authorization required for debit entries or supplemental enrollment information that may be required by the agency (i.e., secondary addresses, etc.).

allow Federal government agencies to utilize the ENR format as an optional method of consumer/corporate, debit/credit enrollment.

Current regulations governing federal government ACH payments [31 C.F.R. Part 210] do not include any prescribed format for automated enrollments to be transmitted to federal agencies via the ACH Network. With respect to a financial institution's execution of an enrollment for federal payments, 31 C.F.R. 210 currently provides that the financial institution is responsible for: (1) the completeness and accuracy of the data provided by it with respect to the enrollment; and (2) verifying that the account entered by the Receiver corresponds to an account bearing the Receiver's name. Promulgation of changes to 31 C.F.R. 210 are pending with the Treasury Department and NACHA encourages the prompt release of a request for comment in this regard indicating the Treasury Department's intent to recognize the NACHA Operating Rules.

NACHA's survey of payments system stakeholders indicates the following acceptance of the expanded ENR application:

- 87% of all respondents to NACHA's request for comment agreed with the recommendation to expand the automated enrollment process so that it may be used by any federal government agency to enroll both consumers and corporations for both credit and debit applications.
- 73% of RDFIs responding agreed that there is benefit in expanding the use of the automated enrollment process for vendor, tax, and other Government applications.
- 100% of Originators responding agreed that they would benefit from the automated enrollment process if it were extended to include enrollments for ACH debit applications.
- 67% of Originators responding agreed that they would benefit from the automated enrollment process if it were extended to include enrollments for Federal Government corporate applications (i.e., vendor and tax payments).
- 67% of Originators responding indicated an interest in utilizing the automated enrollment process if it were extended to include all federal government payment applications.

As with the remittance processing rule change, the expanded ENR application takes effect September 18, 1998.

**Stakeholder Benefits:** NACHA strongly encourages all federal agencies to embrace ENR to support their government payment relationships. NACHA is also working with its regional ACH associations to encourage financial institutions to offer ENR initiation services to their customers.

Making automated enrollment available for Vendor Express would benefit vendors by:

- Providing an optional, electronic enrollment method;

- Ensuring that financial institution information transmitted to the federal government is accurate and complete (as the financial institution is the entity transmitting the information); and,
- Enabling vendors to enroll with multiple agencies through a single contact with their financial institution, and having the institution send ENR entries to each relevant agency.

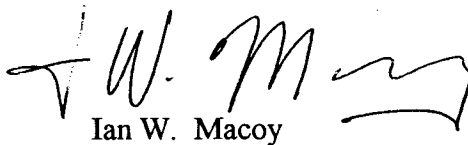
Federal agencies would benefit from offering automated enrollment from the increased comfort level in the receipt of accurate banking information, and the decreased paper work, data entry, errors related to data entry, etc that would result.

Depository institutions initiating ENR entries for vendor payment relationships would benefit through opportunities to build stronger account relationships with its corporate customers. Also, accuracy on future payments is better assured from correct account information being transmitted in the automated enrollment entry by the financial institution.

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NACHA and its members are committed to the federal EFT mandate's implementation and shall continue to work closely with FMS and other federal agencies in this regard. We are also encouraged by the steps the government has already taken, including the general framework of the proposed final rule. If you have any questions regarding NACHA's comments, please do not hesitate to call me at (703) 834-2378.

Sincerely,



Ian W. Macoy

Senior Director, Government Relations

cc:

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